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Maine State Board of Arbitration and Conciliation Annual Report, Fiscal Year 2003

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STATE BOARD OF ARBITRATION AND CONCILIATION

ANNUAL REPORT

FISCAL YEAR 2003

This report is made pursuant to 26 M.R.S.A. § 931 (1988 and Supp. 2002).

Administrative Developments. There was only one change in the complement of the Board this year. On October 30, 2002, Harry R. Courtois of Biddeford was appointed by Governor King as the Alternate Employer Representative. Mr. Courtois brings extensive experience to the Board, having served as a human resources professional in the private sector for 20 years, first at Great Northern Paper and then at Statler Tissue, and in the public sector as the Labor Relations Officer for the City of Bangor for over six years and as Chief of Police in Biddeford prior to that.

The primary members of the Board, Chair Shari B. Broder, an attorney from Freeport whose practice is concentrated in the area of alternative dispute resolution; Employee Representative Robert F. Bourgault, a Labor Consultant from Biddeford; and Employer Representative Virgil E. Beane of Cumberland Center, Senior Vice President (retired) of Hannaford Brothers Company, continued to serve in their respective capacities throughout the year. The alternate members of the Board were: Alternate Chairs Peter P. Michaud, Esq., of Cape Elizabeth, Of Counsel with the Portland law firm of Thompson, Bull, Furey, Bass & MacColl and who focuses his practice on mediation and arbitration, and Barbara L. Raimondi of Auburn, an attorney with the firm of Trafton and Matzen in Auburn; Alternate Employee Representatives Chester G. ("Chuck") Hillier of Monmouth, Assistant Negotiator with the Maine State Employees Association, and Shawn C. Keenan, of Bath, General Counsel of the Maine Education Association; and Alternate Employer Representative Kate S. Debevoise of Yarmouth, an attorney with the firm of Bernstein, Shur, Sawyer and Nelson in Portland. The competence of the Board's membership remains high, consisting of able neutrals and partisan members known throughout the Maine labor relations community. While the members miss their former

colleagues, the appointment of new members brings fresh perspective to the Board's deliberations.

Roger A. Putnam of the Maine Labor Relations Board (MLRB) staff coordinated the Board's activities and served as the primary liaison with the client community. MLRB Executive Director Marc P. Ayotte served as the Board's general administrator and legal advisor.

Activities of the Board. The 30 total cases filed this year compares with 22 total filings in the previous fiscal year. During the last twenty years, the year with the greatest number of filings (75) was FY 1987 and the fewest cases (22) were filed in FY 2002. During that period, an average of 39.25 cases were filed each year.

As in past years, the bulk of the Board's case load involved hearing and resolving grievance disputes, requiring interpretation of collective bargaining agreements. Grievances are disputes that arise due to differing interpretations by the parties of the provisions of their collective bargaining agreement. Of the 30 requests for services received this year, the 28 filings involving grievance arbitration matters were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
AFSCME, Council 93	Cumberland County	Pay Rate for Leave
AFSCME, Council 93	Lincoln County	Health Insurance
AFSCME, Council 93	Mexico	Overtime Pay
AFSCME, Council 93	Penobscot County	Unpaid Admin. Leave
AFSCME, Council 93	Penobscot County	Discipline & Termination
AFSCME, Council 93	Rumford	Overtime
AFSCME, Council 93	Sanford	Leave of Absence
AFSCME, Council 93	Sanford	Unit Work
AFSCME, Council 93	Winthrop	Termination
IAFF, Local 1611	Bath	Suspension

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
IAMAW	Wiscasset	Unit Work
Poland/MEA/NEA	Poland	Termination
South Portland PFFA	South Portland	Extra Vacation Day
Teamsters Local 340	Aroostook County	Suspension
Teamsters Local 340	Aroostook County	Suspension
Teamsters Local 340	Aroostook County	Suspension
Teamsters Local 340	Aroostook County	Suspension
Teamsters Local 340	Aroostook County	Suspension
Teamsters Local 340	Aroostook County	Suspension & Demotion
Teamsters Local 340	Aroostook County	Termination
Teamsters Local 340	Aroostook County	Term./Suspen./Demotion
Teamsters Local 340	Aroostook County	Written Reprimand
Teamsters Local 340	Bangor	BIA Part-time Constable
Teamsters Local 340	Livermore Falls	Termination
Teamsters Local 340	Oxford County	Suspension
Teamsters Local 340	Presque Isle	Vacation Usage
Teamsters Local 340	Waterville_____	Health Insurance Premium
Teamsters Local 340	Waterville_____	Shift Swap Pay

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with “their” respective party, assess that party’s real needs and concerns in the matter at issue, and help the party to determine the relative strengths and weaknesses of their position. The partisan members then caucus to ascertain whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that parties resolving their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. Of the 8 grievance arbitration cases on which the Board met this year,

settlements were reached in 2 cases. Twenty-one (21) cases were withdrawn by the parties prior to hearing, 2 cases were withdrawn after one day of hearing and settlement discussions, and 8 cases are pending.

The Board also received 2 requests for fact-finding services this year, down from 3 requests received last year. The latter type of case arises when parties, with or without the assistance of a mediator, are unable to reach accord on an initial or successor collective bargaining agreement. The following requests for fact-finding were received this year:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Result</u>
Biddeford Ed. Assn.	Biddeford School Board	Hearing scheduled
Teamsters Union Local 340	Aroostook County	In abeyance pending contract signature

Interest arbitration is the final step of the statutory dispute resolution mechanism under the various public sector labor relations laws. The major difference between fact-finding and interest arbitration is that, in the latter process, the panel's determinations are binding on the parties, except in regard to disputes concerning wages, pensions, and insurance. The Board did not receive any requests for interest arbitration this fiscal year.

The Board presented testimony in favor of one bill considered in this year's Legislative Session -- An Act to Enact the Revised Uniform Arbitration Act, L.D. 1218. After extensive review of the proposal, the Board concluded that it codified practices and procedures adopted informally by the Board and applied for many years. By setting forth clear procedural and evidentiary standards, the bill eliminated some of the uncertainty and ambiguity in arbitration proceedings. The Judiciary Committee voted out the bill unanimously "Ought Not to Pass."

In addition to participating in formal dispute resolution proceedings, the Board maintained informal contact with its client community through co-sponsoring a seminar on ethics in labor relations. This program, conducted on December 6, 2002, at the Portland office of the Department of Human Services, featured Professor H. Cabanne Howard of the University of Maine School of Law. The Board of Overseers of the Bar allowed attorneys 1.75 hours of continuing legal education credit for attending and participating in the program. The seminar attracted over 30 labor relations practitioners.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. The Board's mission is to improve the labor-management climate in the public sector by providing high quality professional services to our client community, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 1st day of July, 2003.

Respectfully submitted,

Marc P. Ayotte, Executive Director
Maine Labor Relations Board